

**UNITED STATES DISTRICT COURT  
DISTRICT OF MINNESOTA**

IN RE: Bair Hugger Forced Air Warming  
Products Liability Litigation

MDL No. 15-2666 (JNE/FLN)

This Document Relates to:

*Saylor v. 3M Company, et al*  
*Case No. 17-cv-02892*

**PLAINTIFF'S RESPONSE TO DEFENDANTS' MOTION TO DISMISS**

COMES NOW, Plaintiff Lee Tracy Saylor, appearing through undersigned counsel, who hereby files his Response to Motion to Dismiss filed by Defendants (Rec. Doc. 1030) set for hearing at the status conference scheduled for January 18, 2018. In response to the Motion to Dismiss for failure to comply with Pretrial Order No. 14, plaintiff responds as follows:

1. On July 14, 2017, Plaintiff Lee Tracy Saylor, through undersigned counsel, filed a Short Form Complaint in this MDL alleging infection and injuries caused by the Bair Hugger Forced Air Warming blanket used during his hip replacement surgery.
2. At the time of filing, undersigned counsel was in contact with plaintiff Lee Saylor and provided him a Plaintiff Fact Sheet with instructions to complete the forms and return for submission to defendants.
3. Since the filing of his complaint, the undersigned counsel has unsuccessfully attempted to reach plaintiff by telephone at least fourteen times to follow up on the status of his outstanding Plaintiff Fact Sheet.
4. The undersigned has additionally sent correspondence via certified mail on several occasions notifying plaintiff of his obligation to provide a substantially complete Plaintiff Fact Sheet or face potential dismissal of his case with prejudice.

5. The undersigned counsel has not received any response from plaintiff to explain the ongoing delay in providing a substantially complete Plaintiff Fact Sheet or authorize a stipulated dismissal of his case.
6. As a result, undersigned counsel files this Response to Defendant's Motion to Dismiss documenting efforts to reach plaintiff to obtain a substantially completed Plaintiff Fact Sheet pursuant to PTO 14.

This 11th day of January, 2018.

Respectfully submitted,

/s/ Wesley G. Barr

Wesley G. Barr (LA #32332)

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**CERTIFICATE OF SERVICE**

I hereby certify that on the 11<sup>th</sup> day of January, 2018, I electronically filed the foregoing pleading with the Clerk of Court using the CM/ECF system which will send notice of electronic filing to all counsel of record.

/s/ Wesley G. Barr

Wesley G. Barr